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09/769,590	01/25/2001	Edmund W. Brown	328.002	4551

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BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Application Number: 09/769,590
Filing Date: January 25, 2001
Appellant(s): BROWN, EDMUND W.

Peter C. Stomma
For Appellant

SUPPLEMENTAL EXAMINER'S ANSWER

This is in response to the appeal brief filed 9/2/05 appealing from the Office action mailed 9/17/04.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

Claim 22 contain(s) substantial errors as presented in the Appendix to the brief. Accordingly, claim 22 is correctly written in the Appendix to the Examiner's Answer.

(8) Evidence Relied Upon

4,969,643	Kroeker et al	11-1990
GB1275827	Kozhevnikov et al	5-1968

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claims 22-30, 32,34-35, and 37-40 are rejected under 35 USC 103.

(10) Response to Argument

Appellants argue that that British '827 does not provide a valve system which can meter the flow between the chambers of the damping cylinder (page 15 of brief). Appellants further state that the springs provide a constant force and therefore, there is no user selectability. Appellant concludes that there is no control for flow into a chamber based on these arguments. This is incorrect. The springs 50 acting on the valve have a variable force based on the user actuated adjustment screw 52. The flow into a chamber is controlled by the valve 35 on the opposite side of the cylinder. There are no limitations in the claim to preclude this placement.

Appellants appears to argue the specifics of Kroeker as an individual reference. The reference of Kroeker is relied upon as a teaching of user selectable discrete control valves. The proposed combination replaces the valves of British '827, which allow a range of flow rates as long as the pressure is above a certain threshold, with the valves 88,90, of Kroeker et al which provide a specific flow rate and thus a finer level of control than is possible with the design of the valves of British '827.

Appellants arguments against Kroeker et al seemed to based on the fact that the valves of Kroeker are not in a direct flow line between the chambers of the cylinder. If the valves of Kroeker were in such a setup as the appellant requires, then the Kroeker reference would qualify as prior art under 102(b) not as a teaching reference in a rejection under 103(a). The appellant further to argue that the valves of Kroeker et al does not control the flow into a chamber but out of a chamber. The examiner notes that controlling the flow out of one chamber is related to controlling the flow into a chamber. The volumetric flow out of one chamber is equal to the volumetric flow into the other chamber by the design of the cylinder.

On the bottom of page 16, appellant has listed 3 features allegedly missing from the combination.

1. a first control valve that controls the flow rate of the fluid flowing into the second portion of the cavity in the housing;

The examiner believes that British '827 meets this limitation with check valve 38 and valve 35.

2. a second control valve that controls the flow rate of the fluid flowing into the first portion of the cavity in the housing;

Similarly, The examiner believes that British '827 meets this limitation with the second set of check valve 38 and valve 35.

3. flow regulators having a plurality of user-selectable discrete settings for controlling the flow rate of the fluid flowing between the first and second portions of the cavity and providing a discrete metered flow through a corresponding flow

control valve.

The examiner believes that the valve 35 of British '827 provides a user selectable flow regulation. This valve does not provide a discrete setting. Kroeker et al is relied upon for teaching the use of discrete flow metering for a finer control.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

RS

Conferees:

James McClellan

Devon Kramer

Robert A. Siconolfi 5/17/00
ROBERT A. SICONOLFI
PATENT EXAMINER

Appendix of Claims

22. A dampening cylinder, comprising:

a cylindrical housing having first and second ends and an inner surface defining a cavity in the housing for receiving a fluid therein;

a piston slidably extending through the cavity in the housing;

a flange projecting from the piston and positioned within the cavity so as to divide the cavity in the housing into first and second portions, the flange terminating at a radially outer edge which forms a slidable interface with the inner surface of the housing; and

a flow conduit having a first end communicating with the first portion of the cavity in the housing and a second end communicating with the second portion of the cavity in the housing, the flow conduit including:

first and second flow control valves for controlling the flow of fluid through the flow conduit between the first and second portions of the cavity in the housing, each flow control valve including a flow regulator having a plurality of user selectable discrete settings for controlling the flow rate of the fluid flowing between the first and second portions of the cavity and for providing a discrete metered fluid flow through a corresponding flow control valve;

wherein the fluid flowing between the first and second portions of the housing flows through the flow conduit and wherein the first flow control valve controls the flow rate of the fluid into the second portion and the second flow control valve controls the flow rate of the fluid into the first portion.